

# **Exhibit 10**

**IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI  
SIXTH JUDICIAL CIRCUIT**

STATE OF MISSOURI	Plaintiff,	)	
		)	
vs.		)	Case No. 19AE-CR00948-01
		)	Division 1
		)	
INTEGRITY VENDING, LLC	Defendant.	)	

**STATE’S POST-TRIAL BRIEF**

The State of Missouri, by and through Eric G. Zahnd, Platte County Prosecuting Attorney, and Blake C. Sherer, Assistant Prosecuting Attorney, files the following post-trial brief:

**THE ‘DNA’ OF NCG GAMING DEVICES**

Thomas Gartman, the corporate representative for Integrity Vending testified during trial. Mr. Gartman admitted to several facts about the nature of NCG gaming devices which are of particular importance for this Court to be made aware.

During cross-examination, Mr. Gartman conceded there is no single ‘correct’ way to play Integrity Vending’s machines. Players have different options in choosing *how* to play. A player *may* use certain features (prize viewer and rules) but did not have to. To this end the way in which these two features were deployed by Integrity Vending is of importance.

If a player did not know about the pre-reveal feature or chose not to utilize it, there is no difference between NCG and slot machines. Played this way they are exactly the same machines. For the player’s experience, there would be absolutely no difference between a NCG machine and a slot machine located in a casino. Money would be wagered, the outcome would be

unknown, and a hand would be played. And thus the element of chance is definitively present in this scenario.

The State argues that this is precisely how Integrity Vending wanted players to utilize the machines. If every single player opted for the 'pre-reveal' feature, and refused to play losing hands, Integrity Vending would not make money. Therefore, Integrity relied on players not using the pre-reveal feature. This becomes even more evident when one considers how the machine visually looked to players.

The 'rules' of the games were not intuitive nor were they abundantly obvious. When a player selected a game, the game interface would have an 'info' button on the bottom. Integrity Vending did not even name the button 'rules' but rather chose the more nebulous 'info'. And if a player decided to click the button he/she would be taken to a rules page about the machine and NCG options in general, not that specific game. A player would then have to click on another button to pull up the actual rules for the game. And even then the 'rules page' was essentially one long word block. As evidenced at trial, in the game Arabian Riches, the font and color and sizing made it difficult to read the rules. And it was not until the third paragraph (about half way down) that a player was told of the 'pre-reveal' prize viewer.

This clearly demonstrates that Integrity's model was premised on players not readily knowing about pre-reveal. They wanted players to be uneducated, which meant greater chance of someone playing a losing hand, thus more profit for Integrity Vending. If Integrity Vending wished they could have displayed the prize viewer and rules in ways easier for players to see. They could have made both functions mandatory, or light up, and any other number of ways to educate a player.

Integrity Vending also did not require someone to read the rules prior to playing. The machines were designed so a player never had to be made aware of the pre-reveal feature. When asked on cross-examination if Integrity tracked the number of players who actually read the rules, Mr. Gartman answered in the negative. It is the State's belief the reason for the lack of tracking is simply because Integrity knew that very few if any players actually read the rules.

And if a player actually read the rules, they would learn that the 'pre-reveal' prize viewer was completely optional. The rules made clear that a player *may* use the 'pre-reveal' prize viewer, not that they *shall* or were mandated to. Using this feature was merely an option, completely up to the player. It would be the State's argument that a sizable portion of players would choose not to utilize this feature. It would give a greater experience to the player, not knowing the outcome of play.

Mr. Gartman also conceded that these machines were designed to appear like slot machines. The aesthetic component of these machines ought not be overlooked. For it is not just the software design that matters, but also the visual appeal. One of the games offered for play was Keno, a known game of chance. Integrity could have purchased any number of NCG software suites or designed their own games, but instead chose games that look precisely like slot machines found in casinos. As Cody Hanavan of the Missouri Gaming Commission testified, the games had all the appearances of slot machine games found in casinos. That is part of the appeal that lured players in, games and interfaces that were well known.

Integrity Vending's business model was premised on making a profit. In order for Integrity Vending to be profitable the machines were calibrated to ensure that in the aggregate, players would lose money. Thus a certain percentage of players must lose. It is the State's position this is evidence that the very DNA of 'NCG' machines is a slot machine. Integrity

Vending designed their machines as slot machines, to ensure profit and continued operation. Since there is no skill, a player would be motivated to play losing hands and continue play with the hope of having a winning hand. No one would play a losing hand and then just give up and walk away.

Integrity Vending required players to be over 18 years of age to play their machines. This is yet again more evidence that Integrity knew they were operating slot machines. One does not require an age restriction on an arcade game (Pac-Man), but one does for a slot machine. It is because there is a wager for something of greater value. If this was simply a game of entertainment why not allow minors to play? And if the machines were in fact similar to vending machines, yet again the question remains, why not allow minors to play?

#### **RANDOM NUMBER GENERATION**

The State concedes that Integrity Vending's NCG machines did not operate with random number generation. Play outcomes were pre-determined and part of a finite list of outcomes (i.e. 100,000 outcomes in Bathtime Bucks). All outcomes were known ahead of time. There was nothing a player could do to change the outcome of a hand.

**RESPECTFULLY SUBMITTED,**

**ERIC G. ZAHND  
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